

Case 7:14-cv-00390-JPJ-RSB Document 2 Filed 08/07/14 Page 1 of 3 Pageid#: 4

be released on parole because records of his ongoing mental health problems were not introduced at his sentencing hearing, he was not given an insanity evaluation,² and he needs treatment at a veterans hospital.

Under 28 U.S.C. § 2254(b)(1)(A), a federal court cannot grant a habeas petition unless the petitioner has exhausted the remedies available in the courts of the state in which he was convicted. *See O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999) (finding exhaustion requires seeking review in highest state court). Woodward’s submissions do not indicate that he has pursued any state court action concerning his current claims about being wrongfully denied parole release. He could file a habeas petition challenging the most recent parole board action in the circuit court where he was sentenced, with a subsequent appeal to the Supreme Court of Virginia or he could file a habeas petition directly in the Supreme Court of Virginia.

Because it appears that Woodward has available state court remedies, I must dismiss his § 2254 petition without prejudice.³ *See Slayton v. Smith*, 404 U.S. 53, 54 (1971).

² Woodward, a Navy Vietnam-era veteran, states that during his service, he was hospitalized and ultimately discharged for mental health problems, later diagnosed as Post Traumatic Stress Disorder (“PTSD”). He states that after entering the Virginia Department of Corrections in 2000, he has been committed and forcibly medicated at Marion Correctional Treatment Center, where he is currently confined.

A separate Final Order will be entered herewith.

DATED: August 7, 2014

/s/ James P. Jones
United States District Judge

³ Dismissal of this petition without prejudice leaves Woodward free to refile his claims in a new § 2254 petition, once he has exhausted his state court remedies. I make no finding here suggesting that his allegations support any viable claim for relief.